

THOMSON

THOMSON Broadcast &
Media Solutions

2300 S. Decker Lake Blvd.
Salt Lake City, Utah
84119

Tel (801) 972-8000
Fax (801) 977-1602

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Fax Cover Page

To: Joseph A. Kaufmann
Art Unit 3754
USPTO

Fax: (703) 872-9306

CC:

Fax:

From: D. Quebbeman TBMS

Contact Information:

Phone: (801) 977-1621

Fax: (801) 977-1602

E-mail: dquebbeman@macconnect.
com

No. of pages:
(Including Cover)

4

Date:

12/13/04

Subject: Application No. 10/604,679

See attached.

December 13, 2004

Joseph A. Kaufmann
Primary Examiner
Art Unit 3754
U.S. Patent and Trademark Office
Fax: (703) 872-9306

Re: Application No. 10/604,679

Dear Mr. Kaufmann,

I have received the Office Action Summary dated Nov. 17, 2004 re the above patent application for a Foam Deceleration Tube for Aerosol Herbicide Dispenser.

I appreciate your advice to consult a patent attorney and have taken steps to do so. In the meantime, for the purpose of making his job a little easier I would like to ask for clarification regarding the Office Action, and, rather than asking you for a written response to this letter, perhaps it will save time if I give you a call after you've had a chance to read it over? Please let me know what you think.

1. Per the Office Action, the oath or declaration was found to be defective: no address, signature, or date was provided.

The application was made electronically using the PASAT and ePAVE tools provided by the USPTO. The Declaration was generated automatically by the ePAVE software based on information entered on ePAVE form fields. Although I did enter address information, the address appeared only as "US" on the automatically-generated Declaration. There is a signature block showing my name but I could not discover a method of entering an "electronic signature." There is no block on the Declaration for the date.

Question: Should my attorney attempt to re-apply using the latest version of ePAVE? Perhaps the new version will generate a Declaration with the requested items? Or should he create a new Declaration using a word processor and fax the new form to you?

2. No drawing was submitted.

According to page 10 of the PASAT manual, certain portions of the Application are optional, one of them being a drawing of the invention. This was surprising to me, but I took the easy path and decided not to submit a drawing. Since receiving the Office Action Summary I have created a drawing.

Question: Again, should we attempt to re-apply? I believe there is provision in ePAVE for submission of a drawing in tiff format. Or should we simply fax the drawing?

3. The Specification did not include several required sections.

As previously mentioned, the PASAT manual described some sections as optional, and that is why I omitted them. However, since receiving the Office Action Summary I have used the PASAT tool to create a new Application that does include all sections requested, with the exception of "Incorporation by Reference of Material Submitted on a Compact Disk" and "Sequence Listing." Neither of these sections are included with the PASAT tool, or at least with the version of PASAT I used (version 1.1).

Question: is there a newer version of PASAT that will includes these sections? If not, will re-submission of the application using PASAT be acceptable?

4. Title of Invention.

I would like to change the title from "Foam Deceleration Tube for Aerosol Herbicide Dispenser" to "Foam Deceleration Nozzle for Aerosol Herbicide Dispenser."

Question: Will this require a completely new application?

4. Cross Reference to Related Applications.

I assume that I need to mention in this section that I am responding to an Office Action Summary, but I'm not sure how to describe my reply.

Question: Is it a "re-application?" And do we need to submit another application fee?

5. Claim 1 was rejected on the basis of incorrect formatting.

I have completely re-written the Claims section which I hope is now in the proper form.

6. Claim 1 was also rejected as anticipated by U.S. Patent No. 6,367,663 to Condon et al.

I have carefully considered the Condon device, and while I agree that deceleration would be expected when passing foam through a filter I note that deceleration as a method of improving the accuracy of application of herbicide is not claimed by Condon. I have elaborated on the differences between my invention and that of Condon in the re-written application, and I hope my explanation will be of interest.

7. Prior art of record was not relied upon.

I have carefully considered each the patents referred to in the Office Action and believe I can show how they differ from my invention.

Please call me at the number below so we can discuss how to best proceed with this application.

Thank you for your consideration.

Sincerely,



David J. Quebbeman
4311 Frederick Place
West Valley City, Utah 84119
Daytime phone: (801) 977-1621
Email: dquebbeman@macconnect.com